

## Pam DeMouth

---

**From:** Ferraro, Wendy [weferraro@dmacc.edu]  
**Sent:** Sunday, July 25, 2010 10:26 PM  
**To:** Pam DeMouth  
**Cc:** Jim Spradling; Todd Redenius; Deb Dyar; Craig Block; Dave Kissinger; Gary Welch; Steve Van Oort; Tom Strait; Wade Steenhoek  
**Subject:** RE: Noise Measurement Report

---

Pam:

Thank you for forwarding the information to us, we appreciate your consideration. Mike and I were unable to attend the city council meeting last Monday night; Mike's mother passed away recently and we returned to Baltimore last week to assist Mike's father with various needs we were unable to complete for him at the time we were back there for the funeral.

Council members:

At this point, we are very confused and more than a little exasperated. (Although, perhaps newspaper coverage of the council meeting was skewed and more was actually discussed than was reported.) For 4 years, neighbors have voiced their complaints about loud and disruptive music coming from the band shell. We have had electronic and verbal communication with city staff which states the music is meant for the green space, not the adjacent neighborhood. Mr. Redenius has taken decibel readings at events which neighbors have stated caused irritating levels of noise in our backyards, as well as inside our homes. As a council, though, you have decided to allow decibel levels at the band shell that are actually LOUDER than the readings taken by Todd. This is a resolution to our problem? In what way?

The sound report states that the problems are caused by the proximity of the band shell to the neighborhood. Do we need to remind you that the neighborhood existed before the band shell? Do we need to remind you that no impact studies were done prior to the construction of the band shell? Had the city or the Rotary taken the time to do such studies, it would have been obvious that the choice of location was inappropriate.

In the Powerpoint summary prepared by Todd, we would like to take exception to several of his statements. In the "Key Elements of Ordinance 1660" slide, he states recommended decibel levels are consistent with audio engineering findings. How is this possible? In an earlier slide of his Powerpoint presentation, Todd points out that a reasonable amplified concert sound level would be 100 dbA at the source which translates to 80 dbA at the north boundary of the park. Does this fit the ordinance requirements? The engineer stated in the sound report that it isn't possible to have the proper decibel level at the stage which wouldn't be unacceptable to the neighborhood, hence the statement that the problem is the band shell is in too close proximity to the neighborhood. In "Recommended Report Options", the impression is given that a compromise is being reached with the neighborhood by the passing of an ordinance, the commission of a report, and the performance of ongoing monitoring. However, none of these actions have caused any decrease in noise - in fact, with one more reading/approval of the ordinance it could actually INCREASE the level of noise we experience.

It seems the council is more concerned with the interests of renters of the bandshell (who may or may not even be residents of our community) and turning the band shell into a revenue-generating venue, than with the legal rights of actual residents or other users of the park who will be forced to listen to a concert. Below you will find a link to a summary of a US Supreme Court case (WARD ET AL v ROCK AGAINST RACISM, Supreme Court of the United States, 491 U.S. 781) involving band shell noise in Central Park in New York City - by the way, a place which many of our park board members as well as Mr. Redenius like to compare with Hawkeye Park. It would be greatly appreciated if you would take a few minutes to read the case and summary by Justice Kennedy. It seems to be a very similar situation as we have here in Ankeny and is quite consistent with the findings and suggestions of the engineer's FULL report.

<http://www.law.umkc.edu/faculty/projects/ftrials/conlaw/ward.html>

Wendy Ferraro